

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Wallace Johnson,

Plaintiff,

v.

Jo Anne B. Barnhart, Commissioner of
Social Security,

Defendant.

C/A No. 2:05-0909-GRA-RSC

ORDER

This matter is before the Court for a review of the magistrate's Report and Recommendation made in accordance with 28 U.S.C. § 636 and Local Rule 73.02(B)(2)(a), D.S.C., and filed September 23, 2005. Plaintiff brought this action pursuant to 42 U.S.C. § 405(g) and 1383(c)(3) to obtain judicial review of a final decision of the Commissioner of Social Security denying his claims for disability insurance benefits and supplemental security income benefits under Title II and XVI of the Social Security Act. The magistrate recommends reversing the case under sentence four of 42 U.S.C. § 405(g) and 1383(c)(3) and remanding the case to the Commissioner to reassign the case to the Greenville Division for a full and fair assessment of the Plaintiff's educational level and continuation of the sequential evaluation process.

The magistrate makes only a recommendation to this Court. The

recommendation has no presumptive weight, and responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made, and this Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate with instructions." *Id.* In the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198 (4th. Cir. 1983). Neither party objects to the Report and Recommendation.

After a review of the magistrate's Report and Recommendation, this Court finds that the report is based upon the proper law. Accordingly, the Report and Recommendation is accepted and adopted in its entirety.

IT IS THEREFORE ORDERED that this case be REVERSED under sentence four of 42 U.S.C. § 405(g) and 1383(c)(3) and REMANDED to the Commissioner to reassign the case to the Greenville Division for a full and fair assessment of the Plaintiff's educational level and continuation of the sequential evaluation process.

IT IS FURTHER ORDERED that the Clerk of Court enter a separate judgment pursuant to Federal Rule of Civil Procedure 58.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read "G. Ross Anderson, Jr.", written over a horizontal line.

G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

October 19, 2005